

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RAYNARD D. COLEMAN,

Case No. 21-13061

Plaintiff,
v.

F. Kay Behm
United States District Judge

CORIZON, *et al.*,

Anthony P. Patti
United States Magistrate Judge

Defendants
_____ /

**OPINION AND ORDER ACCEPTING AND ADOPTING MAGISTRATE JUDGE'S
REPORTS AND RECOMMENDATIONS (ECF Nos. 48, 49, 50, 51)**

Currently before the Court are four Reports and Recommendations authority by Anthony P. Patti. (ECF Nos. 48, 49, 50, 51). Magistrate Judge Patti recommends (1) granting Defendant Buske and Cooper's motions to dismiss and for summary judgment (ECF No. 48); (2) granting Defendants Draveling, McInnis, Amalfitano, and Markus's motion to dismiss and for summary judgment and granting in part and denying Johnson's motion to dismiss and for summary judgment (ECF No. 49, as supplemented by ECF No. 51); and (3) granting in part and denying in part the motion for summary judgment filed by defendants Corizon, Schmidt, Obiakor, Martino, and Farris based on Plaintiff's failure to exhaust administrative remedies and granting in part and denying in part the motion to dismiss, leaving pending only the claim against defendant Obiakor

relating to the events of September 23, 2020. (ECF No. 50). The court is fully advised in the premises and has reviewed the record and the pleadings. Neither party has filed objections. “[T]he failure to object to the magistrate judge’s report[] releases the Court from its duty to independently review the matter.” *Hall v. Rawal*, 2012 WL 3639070 (E.D. Mich. Aug. 24, 2012) (citing *Thomas v. Arn*, 474 U.S. 140, 149 (1985)). The court nevertheless agrees with the Magistrate Judge’s recommended disposition.

The Court notes that this matter is automatically stayed as to Defendant Corizon Health, who has filed for bankruptcy. (ECF No. 52). Thus, the court takes no action on any recommended disposition as to Corizon. *McBride v. Canlas*, 2023 WL 2569119, at *1 (W.D. Mich. Mar. 20, 2023) (Because of the automatic stay in Corizon’s bankruptcy proceeding, the court declined to address the report and recommendation as to any claims against Corizon); *Dean v. Trans World Airlines, Inc.*, 72 F.3d 754, 756 (9th Cir. 1995) (Post-petition dismissal in favor of debtor violated automatic stay); *Pope v. Manville Forest Prod. Corp.*, 778 F.2d 238, 239 (5th Cir. 1985) (Entry of an order of dismissal violated automatic stay). This automatic stay also applies to Corizon defendants who are being provided representation by their insurance carrier, Corizon. *Bennett v. Mich. Dep’t of Corr.*, 2023 WL 4678996, *5 (6th Cir. July 21, 2023). Here, Defendants Farris and

Martino have retained new counsel are no longer being provided representation by their insurance carrier and thus, pursuant to *Bennett*, the automatic stay no longer applies to them. (ECF No. 56). At this juncture, Defendants Obiakor and Schmidt remain represented by Corizon's counsel, although there is a pending motion to withdraw, which is referred to Magistrate Judge Patti. (ECF No. 58). Accordingly, the court takes no action on the recommendations as to Obiakor and Schmidt.

Otherwise, the Court **ACCEPTS** and **ADOPTS** the Magistrate Judge's Reports and Recommendations (ECF Nos. 48, 49, 50, 51) and **GRANTS** the motion to dismiss (ECF No. 33) as to all defendants except Johnson, whose motion is **GRANTED** in part and **DENIED** in part, **GRANTS** the motion for summary judgment (ECF No. 35), **GRANTS** in part and **DENIES** in part the motion for summary judgment and to dismiss, except no action is taken as to Defendants Corizon, Obiakor, and Schmidt (ECF No. 44), and **GRANTS** the motion to dismiss and for summary judgment (ECF No. 46).

SO ORDERED.

Date: September 13, 2023

s/F. Kay Behm

F. Kay Behm

United States District Judge